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PROMOTION, PROTECTION AND RESTORATION OF HUMAN RIGHTS AT NATIONAL, REGIONAL AND INTERNATIONAL LEVELS

(a) Prevention of discrimination and protection of children: human rights and youth

Letter dated 4 June 1996 from the Permanent Mission of the Federal Republic of Yugoslavia to the United Nations Office at Geneva addressed to the Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities

The Permanent Mission of the Federal Republic of Yugoslavia to the United Nations Office at Geneva requests that the attached document be circulated as an official document at the forty-eighth session of the Sub-Commission, under agenda item 16 (a).

(Signed) [on behalf of the Ambassador]
Miroslav Milosovíc
Counsellor

GE.96-12235 (E)

Position of the Government of the Federal Republic of Yugoslavia in connection with the concluding observations of the Committee on the Rights of the Child on the report of the Federal Republic of Yugoslavia under article 44 of the Convention

1. On this occasion again the Government of the Federal Republic of Yugoslavia would like to draw attention to the fact that the Yugoslav side is not responsible for the Committee's having been unable to benefit directly from the presence of the Yugoslav delegation during the review of the initial report of the Federal Republic of Yugoslavia (as stated in paragraph 1 of the concluding observations of the Committee on the Rights of the Child (CRC/C/15/Add.49)). The Federal Republic of Yugoslavia honours in good measure the obligations stemming from international treaties to which it is a signatory (art. 16 of the Federal Republic of Yugoslavia Constitution) as well as from the provisions of the Convention on the Rights of the Child. However, during the application of the United Nations Security Council sanctions, when the Federal Republic of Yugoslavia was excluded from the work of the United Nations organs, it was discriminated against both at sessions of States parties to international conventions and agreements and at all the meetings of States signatories to the Convention on the Rights of the Child. That notwithstanding, the Government of the Federal Republic of Yugoslavia submitted to the Committee replies to additional questions concerning the initial report, as well as updated information on the state of children in the Federal Republic of Yugoslavia and, together with the Governments of its member republics, it exerted efforts for the provisions of the Convention on the Rights of the Child to be implemented in practice and made widely public. The members of the Committee will clearly realize this when they receive the progress report of the Federal Republic of Yugoslavia, which is due by the end of 1997.

2. The Government of the Federal Republic of Yugoslavia has decided to react to the concluding remarks of the Committee stemming from its review of the initial Yugoslav report because of a number of incorrect assessments and blanket statements contained in these conclusions, as well as because of the disbelief which can be felt throughout the text in connection with obvious indications of the difficulties which the Federal Republic of Yugoslavia has had and still confronts in implementing the Convention.

3. First of all, the Government of the Federal Republic of Yugoslavia wishes to draw the attention of the Committee on the Rights of the Child to the fact that the repressive treatment of the Federal Republic of Yugoslavia at the hands of the international community, in the wake of the imposition of the sanctions, is one of the factors which is hindering the implementation of the Convention in our country and which has most adversely affected the life of the people in its entirety. Secondly, we wish to remind the Committee that the Yugoslav crisis was not caused by the "break up" of the former Yugoslavia, but that in fact a planned, unconstitutional secession of the former Yugoslav republics took place, which is what caused the war and the massive influx of refugees from the war-ridden areas. Mobilizing its own resources to the maximum throughout all these years, as well as after the suspension of the sanctions, the Yugoslav side sought to address the consequences of these two essential problems.

4. Despite the fact that during the period when the sanctions were in force we submitted to the Committee and to other international factors vast evidence of the consequences of the sanctions, the Committee notes that the sanctions have "seemingly", i.e. "may have led" to a deterioration of the health and education indicators of children in the Federal Republic of Yugoslavia. We see this statement as an attempt to shirk off responsibility for the imposition of the sanctions and their unfathomable consequences for the entire population, in particular the children, of the Federal Republic of Yugoslavia.

5. As regards the situation in the Autonomous Province of Kosovo and Metohija, described in paragraph 7 of the conclusions, we should like to point out the following.

6. The constitutionally guaranteed right to free education in the mother tongue is built into the primary education system provided that a uniform plan and curriculum are implemented in the territory of the Republic of Serbia. The non-exercise of statutorily guaranteed rights is, first and foremost, the consequence of the choices made by the pupils' parents, i.e. the refusal to apply the uniform programme and curriculum within the framework of compulsory eight-year education in Kosovo and Metohija. This choice of the parents, pupils and teachers, while certainly not abolishing their right to elementary education does entail their distancing themselves from the basic objectives of education in the Republic of Serbia and the Federal Republic of Yugoslavia in general, being action based on national-political motives. Several years ago, the leaders of the parties of the Albanian minority called upon their compatriots to boycott everything coming from the official authorities of the Republic of Serbia and the Federal Republic of Yugoslavia. In response to their call, Albanian pupils and teachers abandoned the schools at will and en masse.

7. Despite this fact, no elementary school in Kosovo and Metohija has been shut down and all of them continue to be part of the existing school network. The material costs for their maintenance are being covered, but the teaching staff is not being paid salaries because they have refused to implement the uniform teaching programme and curriculum of the Republic of Serbia. No one in Kosovo and Metohija has expelled the pupils or "dismissed" teachers of Albanian origin; they left of their own accord, and such an infringement upon the integrity of the educational system in the Republic (which is not called in question anywhere else in the Republic, apart from in Kosovo and Metohija) could certainly not have been approved of or accepted.

8. Our Government repeatedly extended invitations for talks to be conducted on the restoration of a regular educational process. It was prepared to grant significant concessions (recognition of diplomas acquired in the parallel educational system over previous years, the re-employment of all teachers who had left their posts), but no such dialogue has materialized to date, solely owing to the refusal of the representatives of the Albanian minority to have this question resolved within a constitutional and legal framework.

9. In connection with paragraph 18 of the concluding observations of the Committee we wish to recall once again that members of national minorities decide for themselves in which language their children are to be educated. Thus, members of the Bulgarian minority have opted for Serbian as the language

of instruction and there is absolutely no reason for any concern, for this does not mean restricting the curriculum at the will of the State but accommodating the choice of those who are directly concerned. Therefore the Committee's statements contained in paragraphs 7 and 18 are ungrounded.

10. Likewise, there is no proof whatsoever that members of the Ministry of the Interior are harassing children and teachers in AP Kosovo and Metohija and in the Raška region. We draw the Committee's attention to the fact that they are wrong in using the name Sanjak for this part of our country, which is called the Raška oblast (district). "Sanjak" does not exist as either an administrative or a geographical term. It is a word of Turkish origin, originally denoting a district (oblast) given by the sultans to their noblemen to rule.

11. Significant funds (13 per cent of the budget) have been earmarked in the 1996 budget to finance the elementary education of children in the territory of the Republic of Serbia without any discrimination whatsoever. The same rules as for all children apply to children wishing to be educated in their national language, as well as to children who have arrived from the war-torn areas. Therefore, the comments contained in paragraphs 29 and 18 of the concluding observations are ungrounded.

12. The "ABC of Children's Rights" by LjubivojeRšumović popularizes the provisions of the Convention and acquaints children with their rights in an illustrative way easily grasped by children, and the book by Susan Fontaine That is (the) Right, a practical guide to the rights of the child, has also been translated. It has been published in 10,000 copies and distributed to schools. In this way the pupils familiarizes themselves practically and learn how to exercise their rights in their own micro-social milieux.

13. In cooperation with UNICEF and other organizations, in keeping with the Committee's observation (item 25), a large number of educational workshops have been developed for the systematic training of educators to work on a higher and more humane level.

14. In everyday school practice a general project of education for development, peace and tolerance has been implemented for quite some time now, and within its framework a series of subprojects are being carried out to train teachers and educators to teach children to exercise their rights in everyday practice. These subprojects are implemented in elementary schools throughout the territory of the Federal Republic of Yugoslavia, involving cooperation between the ministries of education, UNICEF, faculties and science institutes. Hence pedagogic practice is ahead of legislation, which will be harmonized with the provisions of article 29 of the Convention in the foreseeable future.

15. There has been no incitement of hatred towards ethnic and religious groups and national minorities in the State media (para. 11). Not a single concrete instance is mentioned in the Committee's remarks.

16. In comparison with the past, the situation with the media in the territory of the Federal Republic of Yugoslavia has deteriorated, primarily on account of economic constraints caused by the imposition of the sanctions and

the shortage of equipment and spare parts. The assessment of the Committee on the Rights of the Child that there is a "lack of pluralism in the activities of the major mass media" is a blanket and incorrect statement. It is a fact that in the territory of the Federal Republic of Yugoslavia, apart from the State media, there exist numerous private newspapers and radio and television stations. In keeping with their editorial policies these media present diversified ideas and opinions which, indubitably, contribute to the pluralism of operation of the mass media in the Federal Republic of Yugoslavia.

17. If it concerns the extent of information in the languages of the national minorities, this remark of the Committee does not stand either. Within its financial possibilities (considerably constricted due to the sanctions), the State has managed to ensure a more than satisfactory level of informing in the languages of the minorities. Incidentally, the documents of the Organization for Security and Cooperation in Europe in fact contain no quantification, i.e. do not set a minimum level for the required quotas for programmes in the languages of the minorities.

18. It is precisely magazines that are subsidized by the State that are in the most difficult financial position. RTV Serbia as well as RTV Montenegro broadcast radio and television programmes in all the languages of the minorities. The Assembly of AP Vojvodina, having been assigned the founding rights for all the media, has also assumed the financial obligation to subsidize five papers in the Hungarian language and three each in the Slovak, Ruthenian and Romanian languages.

19. The situation in Kosovo and Metohija is particularly difficult due to attempts by the political organizations of the Albanian minority to establish an illegal republic and parallel bodies of authority. This has adverse effects also in the sphere of information, which is encountering exceptional financial and, especially, staffing problems. In the territory of Kosovo and Metohija 25 papers and magazines are published in the Albanian language (the majority being "independent" and privately-owned) and all the editors-in-chief are members of the Albanian national minority. The Albanian language programme of Radio Priština is broadcast every day for 15 hours and 30 minutes, and the Radio Yugoslavia news programme in the Albanian language, broadcast from 9 to 9.15 p.m. is also transmitted every day. Over the first nine months of the past year, TV Priština broadcast a total of 17,019 minutes of programming in the Albanian language (news programmes 9,498 minutes, cultural, artistic and entertainment programmes 7,521 minutes).

20. As regards the recommendation (para. 28 of the Committee's concluding observations) for measures to be taken to improve the activities of the mass media in imparting information in the Albanian language, we wish to stress that there is a standing invitation for filling vacancies but the response of qualified and competent staff is insufficient as members of the Albanian national minority refuse to work for media financed by the Yugoslav State. It is not a question of the non-existence of the right to work in the State media for members of the Albanian minority, but of the non-exercise (boycott) of that right. Such boycotting on the part of individual Albanian journalists restricts the freedom of Albanian children to receive information from different sources.

21. The Committee's concerns (paras. 12 and 28) in respect of "limiting the freedom of the child to receive information" and "the situation of Albanian-speaking children in Kosovo" lend themselves to broader debate. We wish to draw attention to the fact that 40 per cent of the population of the Federal Republic of Yugoslavia are young people under 24, to which number around 250,000 refugee children should also be added. They all are suffering the consequences of the blockade, on account of which, contrary to all international conventions, not only the right of the child "to receive information" but its right to life itself has been frustrated.

22. During the years under the sanctions, the Federal Republic of Yugoslavia and its representatives repeatedly called attention to the devastating effects of the sanctions in general and on children in particular. Towards the end of 1994, when the sanctions were at their toughest a scientific gathering was organized in the Federal Republic of Yugoslavia entitled "The family, the rights of the child and development in FR Yugoslavia", invitations for which were sent inter alia to the International Planned Parenthood Federation, the International Population Activities Fund and the International Social Service in Geneva, but these organizations did not respond.

23. In the territory of the Federal Republic of Yugoslavia, in fact, both the State and private and other organizations are exerting their best efforts for children and young people to be informed from as many diversified sources as possible, and this certainly also applies to members of national minorities.

24. As regards the health situation in Kosovo and Metohija, all citizens, irrespective of national or religious affiliation or material standing, are guaranteed by law the same rights to health care as citizens in other parts of the Republic of Serbia and the Federal Republic of Yugoslavia. On the basis of these rights, the Government of the Republic of Serbia has set up 11 health institutions in Kosovo and Metohija, which provide the following:

(a) Primary, outpatient health care of the population in all communes, each of which has a child-care clinic;

(b) Polyclinic and in-patient health care in hospitals in Peć, Djakovica, Prizren, Kosovska Mitrovica and Gnjilane, as well as in specialized hospitals, i.e. centres, in Peć, Istok, Vitina and Priština;

(c) Hygienic and epidemiological protection, in health-care centres or their wards in Priština, Kosovska Mitrovica, Prizren, Gnjilane and Djakovica;

(d) Specialized polyclinic and hospital health care in clinics, i.e. the Hospital Centre in Priština.

25. At the same time, of the total funds accruing on account of compulsory health insurance in the Republic of Serbia, 30 per cent is allocated for the purpose of equalizing the material conditions for the provision of health care in the insufficiently developed areas of the Republic.

26. May we point out that disparate levels of health care across regions are not specific only to our country. Such a situation is characteristic of more developed countries too and is a regular attendant feature of development in general, not only in the field of health.

27. Although the right to health care has been ensured and health-care activities organized for the population of Kosovo and Metohija, their health indicators and health care are not satisfactory.

28. Two essential problems constantly feature in the health, i.e. hygienic-epidemiological, situation in Kosovo and Metohija:

(a) High infant and young child mortality rates (33.3 per 1,000 live births in 1991);

(b) High incidence of morbidity and mortality from infectious diseases.

29. The unfavourable hygienic conditions in terms of lodgings, nutrition, water supply and waste disposal; the low general and specifically health culture; the large numbers of children and inadequate spacing between births in Albanian families (high birth rates and population growth rates); and insufficient preventive health-care use and delivery, especially of immunization programmes for children and women, are the basic causes of the incidence, persistence and spreading of infectious diseases and the high mortality rates of infants and young children in Kosovo and Metohija. Apart from that, an additional problem in recent years has been the deterring of citizens of Albanian nationality (by separatist parties) from availing themselves of health care in the State health sector.

30. It is the distancing of the Albanians from the State (Serbian, Yugoslav) institutions and not the "large-scale dismissal of health personnel" that is the source of the adverse effects on the health of the Albanian population.

31. It can be assessed on the basis of a review of the health situation and of the measures being taken* that the confidence of citizens of Albanian nationality in the State health sector has started to be restored. This assessment is based on figures showing the occupancy of out-of-hospital and hospital wards and the nationality structure of health personnel, and the majority of beneficiaries as well as of health staff are of Albanian nationality.

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* According to the plan and timetable adopted by the responsible republican Ministry of Health and the republican Health Insurance Institute, in areas of the Republic of Serbia where the prescribed women and children to health personnel ratio has not been achieved (1 doctor and 2 nurses for 5,000-8,000 women above the age of 15; 1 doctor and 2 nurses for 800-1,200 preschool children; 1 doctor and 1 nurse for 1,500 schoolchildren), the existing ratio is to be increased by at least 25 per cent by the year 2000.

32. As regards the second part of the conclusion given in paragraph 17 of the Committee's concluding observations, we wish to remark that we have not sufficient data to warrant the assessment that "a discernible increase in the number of children with mild and serious mental disorders, including among refugee children has been observed". There has been a certain mild and gradual increase over the past decade or so.

33. A series of programmatic health-care measures, procedures and activities have been adopted with a view to the preservation and improvement of the health of children and the promotion of their growth and development, including systematic work with parents, young and preschool-age children and with professionals employed in institutions providing care for such children; systematic medical check-ups to monitor the growth, development, nutritional and health status of children and for the early detection of health disorders (infants undergo such examination in their third, sixth, ninth and twelfth month, and children in their second, fourth and sixth - before enrolment in school - year of life); routine control check-ups to monitor growth, development and nutritional status and establish to what extent pathological states found during systematic or other check-ups have been redressed; vaccinations in accordance with the compulsory immunization programme, against a number of infectious diseases, and screening to detect various disorders; measures to treat detected health disorders, attended by appropriate therapy and rehabilitation procedures.

34. The last of these measures is the grouping of mentally and physically handicapped children in accordance with the law and also the continued monitoring of infant mortality and the establishment of the cause of death in every individual case, as a rule at the level of the institution concerned, associating the clinical diagnosis with the patho-anatomical findings.

35. We fully appreciate the Committee's concern over the seeming overemphasis on and the use of institutional care for children, as professionally we proceed from identical premises. We wish to inform the Committee that in accordance with the legislation in force in the Federal Republic of Yugoslavia, and in practice, institutionalized care for children is the measure of last resort, employed only if the children are grossly neglected or abused in the family and care for them by next of kin or another family is impossible. We wish to stress that the number of children accommodated in institutions - homes - approximates the number of children in need of assistance because of their family circumstances and placed with other families (guardian and foster-care families), and/or adopted.

36. The basic criterion for accommodation in homes is the age of the child and the possibilities for the rehabilitation of the natural family to discharge adequately its protective and educational functions. The measure predominantly applied for children devoid of a familial experience and those who cannot be expected to acquire one in their natural families is adoption and foster parenthood. Refugee children may be adopted pending the full and reliable ascertainment of their identity and current family status. Our country strictly honours this obligation laid down in international conventions.

37. For adoption to be resorted to as widely as possible as the fullest form of protection of parentless children, the establishment is under way of a single data bank of potential adoptees and adoptive families.

38. Also, a broad media campaign is under preparation to advocate and popularize foster care as a form of protection of children deprived of familial care.

39. In response to the increase in violent and aggressive behaviour among children and adolescents against the backdrop of a social and economic crisis (para. 16), the number of child psycho-social care and development programmes has been significantly increased, starting already at preschool institutions, and in schools and social care institutions. In implementing these programmes the activity of social work centres has increased relative to previous years, as has the number of children and adolescents covered by these programmes. A somewhat smaller number of psycho-social and educational-social programmes designed for parents have also been carried out. Institutions of higher learning and institutes (of psychology, pedagogy and adult education and mental health) have initiated these programmes, which are broadly applied, upon the principle of educating educators.

40. A large number of international humanitarian institutions active in the territory of the Federal Republic of Yugoslavia stress that the position of juvenile delinquents and their overall protection, compared to those in other countries, are rather more commensurate with contemporary and humane principles in the treatment of these children. We invite the Committee on the Rights of the Child to familiarize itself, in connection with these issues (para. 22), with the stances of Save the Children, the international humanitarian organization.

41. In Yugoslav family legislation the principle of respect for the views of the child (through consent or consultations) features prominently (in regard to, for example, guardianship, accommodation at an institution or with another family, custody of one parent after divorce). In respect of this principle the legislation of the Federal Republic of Yugoslavia is among the most progressive and in no way lags behind those of other democratic States (para. 31).

42. There exist social work centres in every commune and, under the present conditions, one of their primary tasks is family counselling. Over the past three years a large number of employees of social work centres (primarily psychologists, pedagogues and social workers) have been trained to apply a systematic approach to the family. This has largely mitigated the consequences of the absence of pre-marriage counselling services as special institutions. But the number of marriage and family counselling services has considerably increased during the past three years. The number is also on the rise of pre-marriage, marriage and family counselling agencies operated by private professionals, outside State institutions. They also deliver social-educational programmes for the family (para. 33).

43. The measures being taken within the framework of ministries responsible for social care to prevent the abuse of children are, for the time being,

adopted in conjunction with the general measures for the protection of children with inadequate familial situations. The guardianship authority, by applying its statutorily prescribed powers and generally supervising parental rights, detects families in which children are abused and, if no other protection measures are effective, the children concerned are separated on either a temporary or lasting basis from the families and the parents are divested of their parental rights through a judicial procedure (para. 35).

44. It is with great pleasure that we inform the Committee on the Rights of the Child that there is no longer any cause for concern in respect of the declining coverage of children by preschool education. There was a pronounced reduction in the number of children in preschool institutions (for six-year-olds) in 1993, and also in day-care ones (for younger children). That was a consequence of the United Nations Security Council sanctions, due to which production was reduced or completely stopped in many enterprises and the workers were sent on compulsory vacations. As they no longer went to work the need also dropped for their children to be cared for in preschool institutions on a full day basis. However, the coverage of children by half-day programmes, designed primarily for the purpose of preschool education and character formation, did not decline even in that, the most difficult, year.

45. Already in 1994, when, with great efforts, the brunt of the sanctions started to be alleviated somewhat, the situation began to change and children started to return to day-care centres, with their coverage almost reaching previous levels and in 1995, in fact, exceeding them, which tendency continues this year as well.

46. Declining quality relative to the set standards, in particular where food is concerned, the lack of teaching aid and hygienic agents, the absence of the necessary maintenance, etc., also characterized 1993, to be gradually overcome in the years that followed, including the current year.

47. Refugee status in the Federal Republic of Yugoslavia is acquired on the basis of the Law of Refugees in the Republic of Serbia, and the corresponding Decree in the Republic of Montenegro. These pieces of legislation prescribe the conditions for acquiring such status. All persons staying in Serbia and Montenegro on other accounts are not eligible for refugee status under the law. Refugee status may be revoked only when so warranted by the law, i.e. when the reasons for which such status has been granted no longer exist, and the continued stay of such people in Serbia and Montenegro is no longer within the purview of the commissions (for refugees) but of the responsible State bodies which maintain them in their registers. Illegal stays in any country, including in the Federal Republic of Yugoslavia, may potentially give rise to harassment by the police, if the persons staying in the country illegally contribute to it themselves. The right to social assistance benefits, if required, is exercised through humanitarian organizations, as is standard practice worldwide.

48. It is a fact that the majority of refugees are privately accommodated, with relatives and with other families, which have taken them in of their own

accord and in keeping with their own express wishes. As the Commission has no powers to bind or order anyone to provide such accommodation, all persons whose host families are no longer able to keep them, have the right and opportunity to apply to the Commission to provide adequate collective accommodation for them.

49. We understand and appreciate the Committee's concern over the economic position of refugees and host families, but we must emphasize on this occasion also that their difficult situation is in large measure a result of precisely the sanctions of the international community which for three years virtually isolated the Federal Republic of Yugoslavia from all economic flows and reduced its development possibilities for quite some time to come.

50. Of about 245,000 refugee children, around 2,000 are without parental care. If they had relatives in Serbia and Montenegro, such children were accommodated with them with mutual consent. In about 10 per cent of the cases, the commissions pay no financial compensation for such children.

51. About 15 per cent of the refugee children have been placed through social work centres in foster families, and about 15 per cent in homes and social care institutions. The expenses for children placed in foster families and homes and social welfare institutions are borne by the commissions. There are about 300 handicapped children in this group (impaired hearing, sight, mental retardation, physical disability such as cerebral palsy or other forms of paralysis).

52. Special care was devoted to the interests of children unaccompanied by parents in seeking to accommodate them and provide adequate care for them, i.e. ensure the best possible conditions for their life, schooling and health care, always respecting the will and the wishes of the children. Proceeding from their real needs on the one hand and objective possibilities on the other, the most adequate accommodation and care for them were provided, without any attempts at preventing the reunification of these children with their families, if they had expressed such a wish and had objective possibilities and conditions for the life and education of such children, and if the wish was indeed mutual.

53. The Yugoslav Government highly appreciates the well-meant suggestions of the Committee concerning the need to invest further efforts at the national level and undertake measures designed to ensure the fuller implementation of the Convention on the Rights of the Child in Yugoslavia. The Yugoslav Government deems valuable the Committee's views along these lines, as for instance: the introduction of a system for the independent monitoring of the rights of the child and improvement of the system of coordination in the country (paras. 6 and 26); reviewing the reservation to article 9.1 of the Convention (para. 23); familiarization with the Convention and the development of training and re-training programmes for various categories of professionals working with children (para. 25); the integration into curricula at all levels of schooling of a dimension for the preparation of the child for responsible life in a free society, as stipulated in article 29.1 (d) of the Convention (para. 30); the development of a network of

pre-marriage counselling and family life education programmes (para. 33); the development of systems for the reliable collection of data on drug abuse and the incorporation of a drug prevention programme within the education system (para. 40).

54. In its report which, at the request of the Committee, the Federal Republic of Yugoslavia will be submitting by the end of 1997, it will take into consideration these and all other remarks contained in the concluding observations of the Committee in connection with its review of the initial report of the Federal Republic of Yugoslavia.